

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

FEB 16 2018

Clerk, U S District Court  
District Of Montana  
Billings

MARILYN MARCHINEK,

Plaintiff,

vs.

SAFECO INSURANCE COMPANY  
OF AMERICA,

Defendant.

CV 17-70-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on January 26, 2018. (Doc. 32). Judge Cavan recommends that this Court grant in part and deny in part Safeco's motion for summary judgment. (Doc. 19).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

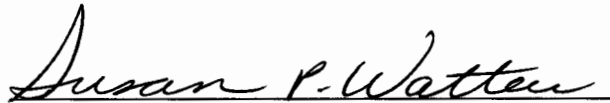
IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 32) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Safeco's motion for summary judgment (Doc. 19) is granted with respect to count 1 of the complaint (Doc. 15). Count 1 is dismissed without prejudice.

IT IS FURTHER ORDERED that Safeco's motion for summary judgment (Doc. 19) is denied with respect to count 2 of the complaint (Doc. 15).

IT IS FURTHER ORDERED that the case is stayed pending resolution of the appraisal process.

DATED this 16<sup>th</sup> day of February, 2018.

  
SUSAN P. WATTERS  
United States District Judge